Michael J. Frevola Lissa D. Schaupp **HOLLAND & KNIGHT LLP** 195 Broadway New York, NY 10007-3189 (212) 513-3200

ATTORNEYS FOR PLAINTIFF BRYGGEN SHIPPING & TRADING AS

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK Judge Hellerstein

BRYGGEN SHIPPING & TRADING AS,

Plaintiff.

-against-

PETROEXPORT LTD.,

Defendant.

00931 08 Civ.

> VERIFIED **COMPLAINT**

Plaintiff, Bryggen Shipping & Trading AS ("Bryggen" or "Plaintiff"), by and through its attorneys, Holland & Knight LLP, for its verified complaint against Petroexport Ltd. ("Petroexport" or "Defendant"), alleges, upon information and belief, as follows:

- 1. This is a case of admiralty and maritime jurisdiction as hereinafter more fully appears and is a maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.
- 2. At all times material herein, plaintiff Bryggen was and is a business entity organized and existing under the laws of the Norway and maintains a place of business at Gullskogaarden, Bryggen 47, Bergen, Norway.

- 3. Upon information and belief, at all times material herein, defendant Petroexport is and was a business entity organized and existing under the laws of the Cayman Islands with an address c/o M+C Corporate Services Ltd., Ugland House, South Church Street, George Town, Cayman Islands.
- 4. On or about April 3, 2007 Bryggen and Petroexport entered into a voyage charter party (the "Charter") to ship a cargo of biodiesel from Houston, Texas to Rotterdam, The Netherlands aboard the LS JACOBA ("Vessel"), which Charter was memorialized via a fixture recap. The Charter's fixture recap was amended on or about April 23, 2007 ("Amended Recap"). The Amended Recap is annexed as Exhibit 1.
- 5. The Charter included the standard ASBATANKVOY charter party terms plus additional clauses and Petroexport's Standard Charter Party Clauses 1 through 24 as amended by the Amended Recap of Fixture dated April 23, 2007. A true and correct copy of the ASBATANKVOY form is annexed as Exhibit 2 and a true and correct copy of Petroexport's Standard Charter Party Clauses 1 through 24 is annexed as Exhibit 3.
- 6. Under the terms of the Charter contained within the parties' Amended Recap, Bryggen is entitled to USD \$20,000 per day or pro rata for demurrage in the event that the Vessel is prevented from loading and discharging the cargo within the agreed amount of laytime.
- 7. The terms of the Charter state that laytime is established at "175/175 MTPH LOAD/DISCH SHINC REV."
- 8. In this case, the net time of the Vessel's loading and discharge exceeded the agreed laytime by 192.57 hours, which at a rate of \$20,000 per day establishes damages for

Bryggen in demurrage in the amount of USD \$160,475.00. A true and correct copy of Bryggen's demurrage calculation is annexed as Exhibit 4.

- 9. The terms of the Charter call for arbitration in New York and U.S. law. Bryggen demanded arbitration and appointed and arbitrator on November 1, 2007, to which demand Petroexport has failed to respond. While all disputes arising out of the Charter are to be arbitrated in New York, the action herein is submitted in accordance with Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure as well as 9 U.S.C. §8, is not and cannot be considered a waiver of the Charter's arbitration clause.
- 10. Under Clause 24 of the terms of the standard ASBATANKVOY charter party "[a]wards made in pursuance to this clause may include costs, including a reasonable allowance for attorney's fees."
- 11. Upon information and belief it will take two years to arbitrate this dispute to conclusion, resulting in the following estimated interest and attorneys' fees and costs:

Interest:

\$ 24,071.25 (\$160,475.00 x 0.075/year x 2 years)

Attorneys' fees

\$ 60,000.00

Total Principal Claim:

\$ 160,475.00

Total Sought:

\$ 244,546.25

12. Petroexport is not found within the Southern District of New York but does have assets, good or chattels within the jurisdiction, to wit: funds or accounts held in the name of Petroexport Ltd. with, upon information and belief, the following financial institutions: Bank of America, N.A.; The Bank of New York; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; UBS AG; Wachovia Bank, N.A.; Société Générale; Standard Chartered Bank; BNP Paribas; Calyon Investment Bank; American Express Bank; Commerzbank; ABN Amro Bank; Bank Leumi USA; Banco Popular; or any other financial institution within the Southern District of New York.

#### WHEREFORE, Bryggen Shipping & Trading AS prays:

- 1. That a summons with process of attachment and garnishment may issue against the defendant, Petroexport Ltd.; and if defendant cannot be found, then that its goods, chattels and credits within the district, and particularly all bank accounts and other property of Petroexport Ltd. with the financial institutions noted above in paragraph 12, may be attached in an amount sufficient to answer plaintiff's claim;
- 2. That defendant Petroexport Ltd. and any other person claiming an interest therein may be cited to appear and answer the matters aforesaid;
- 3. That judgment be entered in favor of Bryggen Shipping & Trading AS and against Petroexport Ltd. in the amount of US\$244,546.25 (including estimated interest, expenses and attorneys' fees); and,

4. That this Court grant Bryggen Shipping & Trading AS such other and further relief which it may deem just and proper.

Dated: New York, New York January 4, 2008

**HOLLAND & KNIGHT LLP** 

By:

Michael J. Frevola

Lissa Schaupp

195 Broadway

New York, NY 10007-3189

Tel: (

(212) 513-3200

Fax:

(212) 385-9010

Attorneys for Plaintiff

Bryggen Shipping & Trading AS

### **VERIFICATION**

STATE OF NEW YORK

:ss.:

COUNTY OF NEW YORK

MICHAEL J. FREVOLA, being duly sworn, deposes and says:

I am a member of the firm of Holland & Knight LLP, counsel for Bryggen Shipping & Trading AS ("Bryggen"), plaintiff in the foregoing action. I have read the foregoing Verified Complaint and know the contents thereof, and the same are true and correct to the best of my knowledge. I have reviewed documentation provided to me by Bryggen and corresponded with Bryggen's representatives regarding this matter. I am authorized by Bryggen to make this verification, and the reason for my making it as opposed to an officer or director of Bryggen is that there are none within the jurisdiction of this Honorable Court.

Michael J. Frevola

Sworn to before me this 4<sup>th</sup> day of January, 2008

Notary Public

Elvin Ramos Notary Public, State of New York NO. 01RA4870243 Qualified in Queens County Certificate filed in New York County Commission Expires September 2, 2010

# **EXHIBIT 1**

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#### Frank Ingebrigtsen

From:

Network Chartering Americas, Eric Koehne [netchar@netchar.com]

Sent:

23. april 2007 23:07

To:

Network Chartering; 'PETROEXPORT'

Cc:

netchar, netchar

Subject:

LS JACOBA / PETROEXPORT CP DATED APRIL 3, 2007 (AMMENDED APRIL 23,

-2007)

Attachments: Petroexport shipping terms 2007.doc; LS Jacoba\_Questionnaire88.pdf

RE: BIODIESEL EX HOUSTON TO ROTTERDAM / APRIL 25-MAY 10, 2007

PLS FIND BELOW AMENDED RECAP OF FIXTURE DATED APRIL 3 2007

PRIVATE AND CONFIDENTIAL

CHRTRS:

PETROEXPORT LTD. 340 EAST 64TH STREET

**SUITE 34C** 

NEW YORK, NEW YORK 10021

OWNERS:

BRYGGEN SHIPPING AND TRADING - BERGEN, NORWAY - AS T/C OWNERS

VESSEL DETAILS:

VESSEL

: LS JACOBA OOS

BUILT TYPE

: 2006

DWT (at extreme draught)

: OIL PRODUCTS / CHEMICAL IMO TYPE II approx: 15500

GRT

approx: 10300

NRT

арргох: 5000

LOA

: 148.00 m

 $\mathbf{L}_{\mathrm{BP}}$ 

: 139.50 m

BREADTH

: 21.80 m

DEPTH

11.30 m

DRAUGHT COATING

8,60 : MARINE LINE

APPROVALS: BP / STATOIL / REPSOL **CDI INSPECTED / SIRE REPORT** 

LAYCAN:

APRIL 25 / MAY 10, 2007

PC:

12,500 AT'S BIODIESEL.

3-4 GRADES - SEGREGATION FOR ALL PARCELS 5,000 MT FAME (SME) - VOPAK DEER PARK - SEGREGATED AS: 3,000 AND

2,000 MT

PARCEL 2:

PARCEL 1:

2,500 MT FAME - MAGELLAN TERMINAL

PARCEL 3:

5,000 MT FAME (PME) - KINDER MORGAN TERMINAL (HARVEY, LA)

**EACH GRADE 5 PCT MOLOO** 

LOAD:

2 SB HOUSTON (INTENTION: VOPAK DEER PARK / MAGELLAN TERMINAL - GALENA PARK)

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AND 1 5B HARVEY, LOUISIANA (INTENTION: KINDER MORGAN TERMINAL)

DISCH:

**1SB ROTTERDAM** 

RATE:

USD 65.00 PMT - FOR 10.000 MT'S 3 GRADES

USD 70.00 PMT - FOR 2,500 MT'S ADDITIONAL IN HARVEY, LA

PLUS: USD 60,000 LUMPSUM FOR VESSEL CALLING HARVEY, LOUISIANA

FREIGHT PAYABLE 3 DAYS AFTER S/R B/L'S

LAYTWE:

175/175 MTPH LOAD/DISCH SHINC REV

DEM .:

USD \$20,000 PER DAY / PRO RATA

5% COMM INCL 2.5 PCT ADD

GA/ARB - NYK US LAW

Y/A 94 TO APPLY

LAST CARGOES:

15T LAST - METHANOL

ETA HARVEY:

PLS ADV

ETA HOUSTON:

MAY 5, 2007

ETA ROTTERDAM:

MAY 23 - 28, 2007 AGW

ASBATANKVOY C/P INCLUDING ADDITIONAL CLAUSES AND PETROEXPORT'S STANDARD TERMS AS AMENDED BELOW:

NITROGEN, IF REQUIRED, TO BE SUPPLIED BY CHRTRS AT THEIR TIME, RISK, EXPENSES, OWNERS TO MAINTAIN THROUGHOUT VOYAGE AT NO EXTRA CHARGE(S) FOR CHRTRS.

- OWNERS AGENTS
- · BIMCO ISPS-CLS / AMS-CLS TO APPLY
- ANY TAXES AND/OR DUES ON CARGO AND/OR FREIGHT TO BE FOR CHARTERES ACCOUNT AND SETTLED DIRECTLY BY THEM.
- CONOCO WEATHER CLAUSE TO APPLY.
- BUNKERING CLAUSE: BUNKERING TIME NOT TO BE DEDUCTED FROM LAYTIME UNLESS IT DELAYS COMMERCIAL OPERATION.
- ANY TIME AND EXPENSES FOR OBTAINING A VALID COC (CERTIFICATE OF COMPLIANCE) TO BE FOR OWNERS ACCOUNT. TIME SPENT IN OBTAINING A VALID COC NOT TO BE DEDUCTED FROM LAYTIME UNLESS IT DELAYS COMMERCIAL OPERATIONS.
- VEGOIL TANK PRE-WASH CLAUSE
- (A) IF FOLLOWING DISCHARGE OF THE CARGO THE VESSEL IS REQUIRED TO PRE-WASH ITS CARGO TANKS PRIOR TO LEAVING THE DISCHARGE PORT IN ORDER TO COMPLY WITH MARPOL 73/78 ANNEX II OR ANY OTHER NATIONAL OR LOCAL LAWS OR REGULATIONS, THE CHARTERERS SHALL PAY COMPENSATION IN AN AMOUNT EQUIVALENT TO THE RATE OF DEMURRAGE STIPULATED IN THE CHARTER PARTY FOR ALL TIME AFTER COMPLETION OF DISCHARGE UNTIL THE COMPLETION OF WASHING AND DISPOSAL OF THE TANK WASHINGS AND/OR CARGO RESIDUES SHALL BE ARRANGED AND PAID FOR BY THE CHARTERERS.
- (B) IN THE EVENT THAT THE VESSEL IS ORDERED TO VACATE THE DISCHARGING BERTH TO PERFORM THE PRE-WASHING OF ITS CARGO TANKS AS PROVIDED UNDER SUB-CLAUSE (A), ANY SHIFTING EXPENSES SHALL BE FOR THE CHARTERERS' ACCOUNT.

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AMENDED PETROEXPORT LTD STANDARD CLAUSES 1-24

- 02. DELETE (AS PER MAINTERMS)
- 03. DELETE SAME IS CHRTRS RESPONSIBILITIES, VESSEL IS FULLY DESCRIBED IN MAINTERMS AND AS PER Q88
- 06. INSERT IN LINE 2 "175" AND "175"

DELETE, IN PARAGRAPH 2, AS FROM "SHIP'S CREW TO CONNECT..."

- 07. DELETE NITROGEN CLAUSE TO BE AS PER MAINTERMS.
- INSERT IN LINE 1 AFTER "PRE-INSPECTION", INSERT "BY INDEPENDENT SURVEYOR(5)"
- 16. DELETE AS FROM "IN ADDITION OWNERS CAN NOT CARRY ANY COMPETING CARGO ON BOARD."
- 17. INSERT AT THE END, AFTER "USED LAYTIME", INSERT "UNLESS SUCH DELAY(S) IS FOR REASONS SOLELY ATTRIBUTABLE TO THE CHARTERERS OF THIS C/P, WHEN FULL TIME TO COUNT TOWARDS CHARTERERS OF THIS C/P.
- INSERT IN LINE 2 AFTER "DULY SIGNED", BEFORE "TIME", INSERT PROVIDED OBTAINABLE.

DELETE IN LINE 3 "60", REPLACE BY "90"

- 20. DELETE AS FROM: "SHOULD VESSEL / MASTER..."
- 21. OK, BUT PLS ALSO INSERT OWNERS PROTECTIVE CLAUSES AS FOLLS:

WHEN STS, LIGHTERING, OPEN SEAS BERTHS AND AT BOUYS THEN ANY DELAYS DUE TO BAD WEATHER A/O SEA CONDIDITIONS SHALL COUNT IN FULL AS USED LAYTIME OR DEMURRAGE IF VESSEL ON DEMURRAGE, OWISE CONOCO WEATHER CLAUSE TO APPLY. WHEN VESSEL IS SHIFTED DUE TO BAD WEATHER, THEN SHIFTING EXPENSES TO BE FOR CHARTERERS ACCOUNT AND SETTLED DIRECTLY BY THEM.

WHEN STS, LIGHTERING, OPEN SEAS BERTHS AND AT BUOYS THE STAND-BY TUGS, IF ANY, TO BE FOR CHTRTRS ACCT AND SETTLED DIRECTLY BY THEM.

 ANY AND ALL STS EQUIPEMENT REQUIRED FOR SAFE STS TO BE SUPPLIED AND PAID FOR BY CHRTRS AT THEIR TIME/EXPENSE, ALL AS PER OCIMF GUIDE TO STS TRANSFERS.

**END RECAP** 

1

PLEASE CONFIRM ALL IN ORDER.

THANK YOU VERY MUCH FOR YOUR SUPPORT.

Best Regards;

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NETWORK CHARTERING

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Network Chartering Americas Inc.

Office: ++ 1 713 626 3226 Mobile: ++ 1 713 298 1328 Fax: ++1 713 623 0547 email. netchar@netchar.com yahoo id: eric\_koehne

# **EXHIBIT 2**

A5.7

1

APPENDIX 5: FORMS

#### ASBATANKVOY CHARTERPARTY

Association of Ship Brokers & Agents (U.S.A.), Inc.
October 1977

CODE WORD FOR THIS CHARTER PARTY: ASBATANKVOY

**TANKER VOYAGE CHARTER PARTY** 

					Place	Date
rr	IS THIS DAY AG	REED betwee	m			
harte	red owner/owner (	bereinafter c	alled the "Owner") of the			
8/M8					(he	reinafter called the "Vessel")
ınd					(herein	nafter called the "Charterer")
thet th	se transportation b	seroin provide	d for will be performed subje	rt to the terms and conditions o	f this Charter Party,	which includes this Presmble
and Pr	ert I and Part II. I	n the event o	f a conflict, the provisions of	Part I will prevail over those	contained in Part II.	
				PART I		
A.	Description and P	baitien of Ver	mel:			
	Deadweight:	ton	a (2240 lbs.) Clar	wed:		
	Loaded draft o	( Vessel on se	signed summer freeboard	ft. in. in selt water.		
	Capacity for co	n.ão:	tons (of 2240 lbs. each)	% more or less, Vessel's op	tion.	
	Conted:	☐ Yes	□ No			-
	Coiled:	☐ Yes	□ No	Last two cargoos:		
	Now:			Expected Ready:		
В.	Laydaye:					
	Comme	ncing:		Cancelling:		
C.	Loading Port(s)					
						Charterer's Option
D.	Discharging Port	(a):				
						Charterer's Option
E.	Cargo:					
	_					Charterer's Option
<b>P</b> .	Freight Rate:					per ton (of 2240 lbs. each)
G.	Freight Payable	to:				•
H.	Total Laytime in		1100		_	
	retaining in	·	······································			

ASBATAN	KVOY	CHAR'	TERPARTY

A5.7

I. Demurraç	e per	day:
-------------	-------	------

- J. Commission of % is payable by Owner to on the actual amount freight, when and as freight is paid.
- K. The place of General Average and arbitration proceedings to be London/New York (atrike out one).
- L. Tovalop: Owner warrants vessel to be a member of TOVALOP scheme and will be so maintained throughout duration of this chafter.
- M. Special Provisions:

IN WITNESS WHEREOF, the parties have caused this Charter, consisting of a Preamble, Parts I and II, to be executed in duplicate as of the day and year first above written.					
Witness the signature of:					
	Ву:				
Witness the Signature of:					
	Ву:				

#### APPENDIX 5: FORMS

On a provinge in a most or ports (a:

On a provinge in a most or ports (a:

Charlabours of other related fronting ports)

Charlabours of other charlass Colf leading ports)

(from ports west of Pert Shaless Colf leading, the Charlawar shall

asking a distributing gover or ports by redic to the Basines on or before the

asking a distributing gover or ports by redic to the Basines on or before the

ASBATANKVOY CHARTERPARTY

#### BILL OF LADING

Shipped is apparent good order and condition by	Steemship		
on beard the	Motorship		
whereof	is Muster, at the port of		
	· · · · · · · · · · · · · · · · · · ·	•	
to be delivered at the port of			
or so meer thereto as the Vessel can eafely get, always affont, unte			
A so near contact on road American Cara Service Real Plantic Burners (1994)	,		
or order on payment of freight at the rate of			
contract		<del> </del>	
This shipment is carried under and pursuant to the terms of the charter de	ted New York/London		
between	and		,
Charteres, and all the terms whatesever of the mid charter except the rate			
In witness whereof the Master has signed			_ Bills of Ladin
of this tener and date, see of which being accomplished, the others will be a	oid.		
Dated at		day of	<u>.</u>
		Master	

# **EXHIBIT 3**

#### Petroexport Ltd.

## **Standard Charter Party Clauses** 1 through 24

#### 1. I.T.O.P.F.

Owner warrants that they are a member of the International Tanker Owners Pollution Federation Ltd. (I.T.O.P.F.) and will remain so for the duration of this Charter Party.

#### 2. Vessel Approval

Owner warrants that the vessel(s) nominated under this Charter Party at all times shall be accepted by all major oil companies (e.g. BP, Shell, Exxon) and chemical companies and has been CDI inspected. Owner to arrange for inspections as and when required at their time and expenses.

#### 3. Load and Discharge Port Restrictions

Owner warrants that they are fully aware of the physical and operational restrictions at nominated load and discharge ports, terminals and berths, and will abide by same. Possible restrictions include but are not limited to: physical limitations on the vessel draft, length, beam, displacement, etc. and restrictions on nighttime cargo operations, navigation and/or berthing. Any delay and/or additional costs incurred due to non-compliance with restrictions shall be for Owner's account.

#### 4. Vessel Suitability Clause

#### A.

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Vessel to be classed 100 A.1 Lloyd's register (or equivalent) for all time she will be under this Charter party. Any extra insurance and / or governmental charges on cargo and / or ship, if any, on account of Vessel's age and / or class and / or flag and / or ownership to be for Owner's account. Owners warrant that the Vessel and its equipment complies with all mandatory international regulations being in force at the date of this Charter Party applicable to the contracted voyage and cargo, and that the Vessel has on board the necessary valid certificates for this Charter Party. Owners warrant that the Vessel /Owners are members of a first class P & I Club and will remain so during the currency of Charter Party.

#### B.

Owner / Vessel to comply with all United States Coast Guard and OPA regulations, including such regulations pertaining to Alcohol, drugs and drug testing. Any loss, claim or action resulting from Owner/Vessel's noncompliance shall be Owner's responsibility, and any resulting delay not to count as used laytime or demurrage.

C.

Owner warrants that this vessel (or sub) complies fully with the ISM Code and is in possession of a valid Safety Management Certificate and will remain so for the entirety of her employment under this charter party. Owner will provide Charterer with satisfactory evidence of compliance if required to do so.

Without prejudice to any rights or remedies available under the terms of this charter or under U.S. Law, in the event of a breach of the above undertaking any loss, damage, expense or delay following there from shall be for Owner's account.

#### 5. Last Cargo Clause

Last three (3) cargoes to be clean / unleaded and suitable for the safe carriage of specified cargo of Part I / Clause E

#### 6. Pumping / Terminal Clause

Owners warrant that the vessel is capable of receiving / discharging the entire cargo at a rate of \_\_\_\_\_ metric tons per hour at load, \_\_\_\_ metric tons per hour discharge (laytime as agree in fixture to be entered) or maintain 100 P.S.I. at the ship's rail, provided the shores facilities permit. Any claim in respect to excess pumping time shall be accompanied by an hourly manifold pumping log countersigned by both Masters and Receivers if obtainable, failing which such claim shall be null and void.

Discharge terminal will have the right to gauge pressure. Ship's crew to connect and disconnect hoses if permitted by local regulations at loading / discharging port at Owner's risk and expense.

#### 7. Nitrogen Clause

If a nitrogen blanket is required by the Charterer, the Charterer shall supply the initial nitrogen blanket and the Owner shall maintain a nitrogen blanket during transit and discharge of Charterer's cargo. The Owner shall furnish documented proof that the vessel provided regular and routine nitrogen maintenance as required under this Clause. Upon request, a copy of the log shall be supplied to the Charterer.

#### 8. Address Commissions

An address commission of 2.5 percent on all monies under this Charter Party (including freight, deadfreight and demurrage) shall be paid to Petroexport Ltd. Such address commission to be separated out on the freight invoice and deducted from the freight due.

#### 9. Shifting Clause

Shifting time from anchorage and / or waiting berth to loading or discharging berth not to count as laytime, even if on demurrage.

#### 10. Wharfage / Dockage

Wharfage and / or dockage, if any, for Owners account

#### 11. Confidentiality Clause

It is agreed that all negotiations terms and conditions of this Charter Party shall remain strictly private and confidential.

#### 12. Independent Inspector Clause

Should a vessel which is scheduled for loading fail the pre-inspection, the Owner of the vessel shall be required to pay for the cost of any subsequent inspections by the Charterer's Inspector at the load berth/port. Owners will also be responsible for other additional cargo operations costs including overtime if any that Charterer may incur due to vessel failing pre-inspection.

### 13. Heating Clause

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( ;

If Charterers require cargo heating, the Vessel shall throughout the voyage and the entire discharge maintain the cargo at the loaded temperature or at the temperature stated in the Charter Party agreement, whichever is the lower. If requested by the Charterer and if the length of the voyage allows, vessel shall increase and maintain the temperature of the cargo from the loaded temperature to a temperature specified by Charterer, and Charterer shall pay for extra bunkers consumed solely in increasing the temperature as aforesaid at Owner's documented actual replacement cost for such bunkers at the port where bunkers are next taken. If vessel fails to maintain the temperature of the cargo as requested by the Charterer, Charterer shall have the option to hold Vessel off berth and / or to suspend discharging until the cargo is properly heated. All time and expense in connection with the foregoing being for Owner's account.

#### 14. Vapor Control Clause

For nominated terminals in the USA where vapor control is required, Owners warrant that nominated vessels will comply with all applicable USCG Regulations. For all other locations where nominated cargoes are required by law to be loaded using vapor control, Owners warrant that nominated vessels will comply with all local regulations and will additionally comply with the vapor control requirements of the International Bulk Code.

#### 15. Tank Suitability Clause

The Charterer's part cargo is to be loaded into and carried in stainless steel tank(s) or suitable coated tanks in Owners option. Vessel to arrive at load port(s) with all cargo tanks, pumps and pipes suitable clean to Charterer's Inspector's satisfaction and Owners to ensure that all traces of sediment, tank washing or chemical, if used, are removed from tanks, pumps and pipes intended for carriage of designated cargo. Any delays or expenses as a result of Vessel arriving at load port(s) and not being in a suitable condition to load

the designated cargo to be for Owner's account, and such time, expenses not to count against Charterer.

#### 16. Rotation / Completion Segregation Clause

The Owner has the right to carry completion cargo for own and / or outside account, but guarantees to give full and complete segregation to the part cargo referred to in Clause "E" hereof and to use a separate line and pump for it. Rotation of loading and discharging ports to be in Owners option however always in geographical rotation. In addition Owners can not carry any competing cargo on board.

#### 17. Laytime Suspension Clause

In the event of Vessel being delayed in berthing and the Vessel has to load and / or discharge at the berth(s) for the account of others, and terminal(s) cannot load / discharge all grades simultaneously, then such delay and / or waiting time if incurred shall not count as used laytime.

#### 18. Y/A General Average / Arbitration Clause

York / Antwerp rules 1994, General Average / Arbitration to be New York / U.S. Law

#### 19. Time Bar Clause

Charterer shall not be obliged to pay any claims unless such claim, along with supporting documents (including but not limited to Vessel's duly signed time sheets and terminal logs) is received by Charterer within 60 days from completion of discharge.

#### 20. Eta Clause

Vessel / Master to give ETA notices to the Charterer and all other parties (as instructed in voyage orders) immediately upon sailing prior discharge port and / or Charterer's load port(s). Thereafter Vessel / Master to provide 5/4/3/2/1 days + 12 hours ETA notices in advance at either Charterer's load or discharge port(s). During laden voyage Master to give ETA's every Monday / Wednesday / Friday. Should Vessel / Master fail to comply with this clause and any delay at either port(s) result in any such delay(s), time shall not be for Charterer's account.

#### 21. Board to Board Transfer Clause

Charterers will always have the option to load by ship / barge transfer at a safe anchorage and / or berth at their own risk and expense.

#### 22. Prorated Waiting Time Clause

In the event of Vessel being delayed in berthing and the Vessel has to load and / or discharge at the berth(s) for the account of others, then such delay and / or waiting time and / or demurrage, if incurred, to be prorated according to the Bill of Lading quantities.

### 23. Letter of Indemnity

Should Bills of Lading not arrive at the discharge port(s), Owners are to discharge and release the entire cargo against a Letter of Indemnity provided to Charterer in accordance with Owners P & I Club wording. No bank guarantee required.

#### 24. Administration Clause

No formal written and signed Charter Party will be prepared unless specifically requested by either party. Charter Party terms and conditions are evidenced by the broker's fixture confirmation E mail in conjunction with written approval of the E mail by both the Owners and the Charterers, each party confirmation agreement by their authorized representative within two (2) working days by E mail or the other party through the fixing broker.

# **EXHIBIT 4**

## Petroexport

## **DEMURRAGE CALCULATION**

VESSEL CHARTERER CARGO INV. NO	Ls Jacoba Petroexport 2011,419 mt linseed oil	VOYAGE C/P DATE FIX. NO YOUR RE	:	voy 07-01 3-apr-07
LOADING IN	Houston			
N.O.R. tendered	06.05.2007 18:30			
Vessel berthed	10.05.2007 03:40			
Hose connected	10.05.2007 09:30			
Loading commenced	10.05.2007 11:20			
Loading completed	14.05.2007 18:20			
Hose disconnected	14.05.2007 18:55			
Time counting from	06.05.2007 18:30			
Time counting to	14.05.2007 18:55	192 hrs	25 min	
Less notice		6 hrs	0 hrs	
Less prorata waiting time		-		
petroexport 5000 m/t adm 2011,4	119 mt			
NORT+6h 7/5 00:30-anchor awei				
68,9167 hrsx5000/7011,419= 49,1	•			
ttl waiting 68,9167 less P.Exp.sh	are 49,146 = 19,77	19 <i>hrs</i>	46 <i>min</i>	
Less shifting 9/5 21:25-10/5 03:4	0)	6 <i>hr</i> s	15 <i>min</i>	
Less shifting from anchorage to	mageilan	6 hrs	15 <i>min</i>	
LOADING IN	Delta harvey			
N.O.R. tendered	16.05.2007 12:15			
Vessel berthed	17.05.2007 02:10			
Hose connected	17.05.2007 05:00			
Loading commenced	17.05.2007 08:30			•
Loading completed	19.05.2007 12:30			
Hose disconnected	19.05.2007 14:00			,
Time counting from	17.05.2007 02:10			
Time counting to	19.05.2007 14:00	59 hrs	50 min	
		214	-1	
Net time used loading	•	213 hrs	59 min	213,983 hrs
DISCHARGING	Rotterdam			
N.O.R. Tendered	06.06.2007 15:00			
Vessel Berthed	06.06.2007 18:10			
Hose connected	07.06.2007 11:40			
Discharging commmence				
Discharging completed	11.06.2007 22:15			
Hoses disconnected	11.06.2007 22:50			
Time counting from	06.06.2007 18:10			
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## Petroexport

Time counting to	11.06.2007 22:50	124 hrs	40 min	
		124	40	
Net time used discharging	124 hrs	40 min	124,667 hrs	
Total time used Less time allowed		hrs	min	338,650 hrs 146,080 hrs
12782,73/175x2 = 146,08 On demurrage				192,570 hrs
at a rate of	\$20.000,00		\$	160.475,00

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